

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ROBERT LEE BROWN)
)
v.) Civil Action No. 3:12-1213
) Judge Trauger/Knowles
ROBERT ARNOLD, et al.)

REPORT AND RECOMMENDATION

Pending before the Court is Defendants' Motion to Dismiss filed pursuant to Fed. R. Civ. P. 37(a) and (b), and Rule 41(b). Docket No. 48. Plaintiff has not filed a Response to the Motion.

The undersigned previously entered an Order on August 15, 2013 (Docket No. 44), requiring Plaintiff to file with the Court a written explanation showing cause for his failure to serve Defendant within 120 days after the filing of the Complaint pursuant to Fed.R.Civ.P. 4(m). The Order required Plaintiff to file such explanation within twenty (20) days of the date of entry of the Order, and it also stated in pertinent part, "If Plaintiff fails to comply with the provisions of this Order, the undersigned will recommend that this action be dismissed without prejudice."

As of the date of the filing of this Report and Recommendation, Plaintiff has failed to comply with the Court's previous Order. The Court also notes that the Order to Show Cause entered on August 15, 2013 (Docket Entry No. 44), has been returned to the Clerk's Office as "Not at This Facility",

"Expired Sentence". According to the Order entered by the Honorable Aleta A. Trauger on December 10, 2012 (Docket No. 7), Plaintiff was "forewarned that his prosecution of this action will be jeopardized should he fail to keep the Clerk's Office informed of his current address." Therefore, the undersigned recommends that the Defendants' Motion to Dismiss be granted, and this action be dismissed without prejudice.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days after service of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have fourteen (14) days after service of any objections filed to this Report in which to file any response to said objections. Failure to file specific objections within fourteen (14) days of service of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. See *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L. Ed. 2d 435 (1985), *reh'g denied*, 474 U.S. 111 (1986); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72.



E. CLIFTON KNOWLES
United States Magistrate Judge